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Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of the Dominican Republic*

I. Introduction

1. The Committee considered the initial report of the Dominican Republic (CPRD/C/DOM/1) at its 186th and 187th meetings, held on 7 and 8 April 2015 respectively, and adopted the following concluding observations at its 196th meeting on 14 April 2015.

2. The Committee welcomes the initial report of the Dominican Republic and thanks it for its written replies (CPRD/C/DOM/Q/1/Add.1) to the list of issues prepared by the Committee (CPRD/C/DOM/Q/1). It is grateful for the dialogue held with the State party's delegation but would have appreciated it if a larger delegation with a better gender balance had been sent and if the delegation had provided more precise replies to the Committee's questions during the dialogue.

II. Positive aspects

3. The Committee welcomes the legislative measures, public policies and programmes adopted by the State party in various areas covered by the Convention, in particular:

(a) The provisions in the Constitution of the Dominican Republic concerning the rights of persons with disabilities, in particular articles 39 (right to equality), 58 (protection of persons with disabilities) and 60 (right to social security);

(b) Organic Act No. 05-13, on the equality of rights of persons with disabilities;

(c) The National Accessibility Plan and the initiative to hold an international conference on accessible tourism;

(d) The community-based inclusive development programme "Coming out of Hiding".

* Adopted by the Committee at its thirteenth session (25 March to 17 April 2015).

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III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

4. The Committee is concerned that no regulations have yet been passed to implement Act No. 5-13 and that there is no systematic strategy to harmonize national legislation with the Convention, including the removal of derogatory language such as "disabled", "imbecility" and "mental derangement" from the Labour Code and the Civil Code. It is also concerned at the absence of action lines inclusive of persons with disabilities in the 2010–2030 National Development Strategy.

5. **The Committee recommends that the State party immediately set in motion a plan to review its legislation, with a view to removing terminology and provisions that are contrary to the Convention and prioritizing the harmonization of laws relating to the human rights of persons with disabilities. It also recommends the inclusion of action lines inclusive of persons with disabilities in its 2010–2030 National Development Strategy.**

6. The Committee is concerned that there are no mechanisms for consulting with organizations of persons with disabilities when taking decisions in implementation of the Convention and in all matters affecting these persons.

7. **The Committee recommends that the State party establish mechanisms for permanent consultation with organizations of persons with disabilities, as legally recognized procedures for the adoption of measures in implementation of this Convention and in all matters affecting them, in particular including them in the decision-making structures of the National Council on Disability (CONADIS).**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

8. Although the Criminal Code establishes the offence of discrimination based on disability, the Committee notes with concern that the definition does not cover multiple or intersectional discrimination, to which persons with disabilities are often subject, and that there is no record of sentences handed down for discrimination against persons with disabilities. It is also concerned that denial of reasonable accommodation is not included as a form of discrimination on grounds of disability.

9. **The Committee recommends that the State party include multiple and intersectional discrimination in the definition of the offence of discrimination on grounds of disability. It also recommends that it adopt measures, including training, to enable persons with disabilities effectively to pursue the available legal remedies. In addition, it recommends that the State party recognize in law the denial of reasonable accommodation as a form of discrimination in the exercise of all rights recognized in the Convention.**

Women with disabilities (art. 6)

10. The Committee is concerned that women and girls with disabilities are not specifically included in any of the seven priority objectives of the 2007–2017 Second National Gender Equality and Equity Plan. It is also concerned that the disability perspective is not applied in the work and policies of the Ministry for Women.

11. **The Committee recommends that the State party include objectives for and indicators of the inclusion of women with disabilities in its national gender equity plans and in the work and policies of the Ministry for Women, in close consultation with organizations of the women concerned.**

Children with disabilities (art. 7)

12. The Committee is concerned at the lack of mechanisms to protect children with disabilities from neglect and the lack of means whereby children with disabilities can freely express their opinions and preferences on matters that affect them.

13. **The Committee recommends that the State party develop policies based on the principle of the best interests of the child, that will ensure that children with disabilities have the possibility of living in a family and of being included in the community and that it implement mechanisms to ensure that they can express their views on issues affecting them.**

Awareness-raising (art. 8)

14. The Committee notes with concern that there have been few campaigns to raise awareness of the rights of persons with disabilities, that they are not consistent with the human rights-based model and that they have not been given wide publicity.

15. **The Committee recommends that the State party develop a strategy to raise awareness of the rights of persons with disabilities, using all the mass media and all alternative and accessible modes and formats, and covering government institutions.**

Accessibility (art. 9)

16. The Committee notes with concern that action on accessibility on the metro and the renovation of public facilities is very limited. It is also concerned about the lack of technical standards, manuals and protocols on accessibility, of effective monitoring mechanisms and of any national plan covering all public buildings and spaces. It also notes the lack of mechanisms to involve organizations of persons with disabilities in the development of accessibility plans covering all the points contained in the Convention.

17. **The Committee recommends that the State party adopt standards and regulations on accessibility to the physical environment, transport, information and communication, in line with the Convention and in keeping with the Committee's general comment No. 2 (2014) on article 9: Accessibility, and that it implement accessibility plans with measurable goals and time frames in the short and medium term, as well as sanctions for non-compliance. It also recommends that adequate budgetary funds be allocated to implement municipal accessibility plans and to ensure monitoring and evaluation of those plans by organizations of persons with disabilities.**

Situations of risk and humanitarian emergencies (art. 11)

18. The Committee is concerned at the lack of a strategy for the inclusion of persons with disabilities in plans and strategies for dealing with risks and humanitarian emergencies, the unavailability of information in accessible formats and the lack of sign language interpreters.

19. **The Committee recommends that the State party adopt a policy inclusive of persons with disabilities in its strategies, plans and protocols for dealing with situations of risk and humanitarian emergencies, including the provision of information in Dominican Sign Language.**

Equal recognition before the law (art. 12)

20. The Committee notes with concern that the Civil Code establishes regimes on legal incapacity that are based on substitute decision-making and override the wishes of a person classified under the heading of "imbecility, mental derangement or insanity", in violation of article 12 of the Convention.

21. **The Committee recommends that the State party do away with any regime that partially or totally deprives persons with disabilities of their legal capacity, that it amend the Civil Code to recognize the full legal capacity of all persons with disabilities, and that it put in place measures of supported decision-making in line with the Committee's general comment No. 1 (2014) on article 12: Equal recognition before the law.**

22. The Committee is concerned at the fact that discriminatory practices towards people with disabilities are still to be found in some domestic banks and financial institutions, whereby persons with disabilities, notably visual disabilities, are denied independent management of their financial affairs.

23. **The Committee asks the State party to repeal any restriction on, or impediment to, access by persons with disabilities, on an equal basis with others, to banking services or the independent management of their financial affairs.**

Access to justice (art. 13)

24. The Committee is concerned that there is no requirement under the State party's administrative procedures for judicial authorities to make procedural accommodations, such as providing sign language interpretation, when persons with disabilities take part in proceedings. It also notes with concern the shortage of training courses for judicial personnel on the content and approach of the Convention.

25. **The Committee recommends that the State party review its administrative and judicial rules and procedures with a view to adapting them and ensuring access to justice for persons with disabilities, including the guarantee of interpretation in Dominican Sign Language, the use of augmentative and alternative modes of communication and full accessibility to the physical environment, information and communication. It also recommends the introduction of ongoing programmes to train judges, prosecutors and other judicial personnel in the rights of persons with disabilities.**

Liberty and security of the person (art. 14)

26. The Committee is concerned that persons with psychosocial disabilities are being institutionalized in the Padre Billini Centre without their free and informed consent.

27. **The Committee recommends that the State party adopt a mechanism to ensure that persons with disabilities, particularly psychosocial disabilities, can give their free and informed consent on placement in psychiatric centres.**

28. The Committee notes with concern the absence of procedural safeguards for persons with psychosocial disabilities in criminal proceedings. It is also concerned that the internment of persons with disabilities is based on the concept of dangerousness.

29. **The Committee calls on the State party to:**

(a) Review its criminal law in order to ensure that all persons with disabilities have guarantees of due process, on an equal basis with others, and are provided with the necessary reasonable accommodation and access to information and

communication at the various stages of administrative and judicial proceedings for deprivation of liberty;

(b) Remove from its criminal law the concept of dangerousness in cases where a person with psychosocial disabilities is accused of a crime, as well as the deprivation of liberty based on the same criterion.

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

30. The Committee is concerned at the existence of forced medical treatment, and particularly of forced psychiatric treatment that may constitute torture or cruel, inhuman or degrading treatment or punishment.

31. **The Committee recommends that the State explicitly prohibit medical treatment, particularly psychiatric treatment, administered without the free and informed consent of the person with disabilities concerned; it also recommends the establishment of an independent mechanism to monitor internment centres for persons with disabilities in order to prevent and offer protection from acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment.**

Freedom from exploitation, violence and abuse (art. 16)

32. The Committee is concerned at the lack of information on trafficking in persons with disabilities, particularly children with disabilities, who are victims of exploitation through begging, and at the lack of information concerning incest. It is also concerned at the fact that women and girls with disabilities have little physical access to, or information and communication about, mechanisms for protection against all forms of physical, sexual, economic and other violence, including in shelters. The Committee is likewise concerned at the lack of an independent monitoring mechanism to protect persons with disabilities from exploitation, violence and abuse.

33. **The Committee recommends that the State party:**

(a) Investigate the situation of persons with disabilities, especially children with disabilities, who are abandoned and/or begging, and take the necessary measures for their rehabilitation, recovery and inclusion in family and community life;

(b) Design and implement mechanisms for the protection of persons with disabilities, particularly women and children with disabilities, from exploitation, violence and abuse, particularly incest, by ensuring that they have access to information and communication, to mechanisms for submitting complaints and recording such violations of their rights, and to shelters and measures for psychosocial recovery and reintegration into the community;

(c) Appoint an independent authority to promote the protection of persons with disabilities from exploitation, violence and abuse, in accordance with article 16, paragraph 3, of the Convention.

Protecting the integrity of the person (art. 17)

34. The Committee is concerned about the practice of the forced sterilization of women and girls with disabilities, who are declared "legally incompetent".

35. **The Committee recommends that the State party prohibit the forced sterilization of women and girls with disabilities and that it have cases of sterilization reviewed by an independent authority, that it conduct investigations and punish perpetrators, and that it adopt measures for the compensation and reparation of**

victims. It also recommends that a mechanism be established to oversee cases of sterilization to ensure that persons with disabilities can give free and informed consent.

Liberty of movement and nationality (art. 18)

36. The Committee is deeply concerned at the restrictions on access to community inclusion services for persons with disabilities of Haitian descent, as a consequence of the legislation restricting their rights to nationality.

37. **The Committee recommends that the State party speed up the restoration of all the rights of persons with disabilities of Haitian origin or descent, so as to enable them to use all services and programmes for persons with disabilities on an equal basis with others.**

Living independently and being included in the community (art. 19)

38. The Committee is deeply concerned at the fact that there is no strategy to de-institutionalize persons with disabilities, particularly children with "severe" disabilities in the Angeles homes and that no community and support services have been created to enable persons with disabilities to live independently and be included in the community.

39. **The Committee recommends that the State party adopt a programme for the de-institutionalization of persons with disabilities, particularly children with disabilities, in the Angeles homes. It also recommends setting up programmes and support networks to enable persons with disabilities to be included in the community and to live independently, in housing arrangements that meet their wishes, needs and preferences.**

Freedom of expression and opinion, and access to information (art. 21)

40. The Committee is concerned about the fact that Dominican Sign Language has not yet been recognized as an official language in the country, and that there are no strategies for training Dominican Sign Language interpreters and no certifying body.

41. **The Committee recommends that the State party immediately adopt legislation which recognizes Dominican Sign Language as an official language and implement a sign language training strategy for public sector personnel, and that it promote the training of sign language interpreters and encourage the inclusion of education in sign language at educational institutions starting in primary school.**

Respect for home and the family (art. 23)

42. The Committee is concerned at the absence of child custody policies in the State party to protect parents with disabilities; it is also concerned about discriminatory practices against persons with disabilities, especially women who wish to retain their fertility.

43. **The Committee recommends that the State party take measures to protect parents with disabilities so that they can retain custody of their children. It also recommends that persons with disabilities should enjoy protection of their sexual and reproductive rights on an equal basis with others to enable them to retain their fertility, and that awareness of this issue should be promoted among health professionals.**

Education (art. 24)

44. The Committee notes with concern that efforts to include children, young people and adults with disabilities in regular education are inadequate and, in the absence of any State policy to attain this objective, rely mainly on civil society organizations. Another concern is

that it is still the case that a high percentage of schools with students with disabilities are special schools, and that university training for teachers is based on the segregated special education approach, thereby favouring continued segregation inconsistent with inclusive education as stipulated in the Convention.

45. **The Committee recommends that the State party:**

(a) Adopt a policy to provide access to good quality, inclusive education at all levels, taking particular account of the gender perspective, in both urban and rural areas;

(b) Design and implement a plan with specific targets and time frames for the transition of students with disabilities from special education to the system of inclusive education, under the supervision of the Ministry of Education;

(c) Promote a strategy for training teachers and others in inclusive education at all levels.

Health (art. 25)

46. The Committee is concerned that the State party's health initiatives and policies for persons with disabilities favour the medical model of disability, notably primary disability prevention. The Committee also notes with concern that facilities and medical equipment in sexual and reproductive health services are not accessible, particularly to women and girls with disabilities, and that stigmatization and practices prejudicial to the rights of persons with disabilities persist.

47. **The Committee recommends that the State party:**

(a) Redouble efforts to ensure that general health services, including sexual and reproductive health services, are fully accessible to all persons with disabilities, by eliminating prejudice and encouraging training and in-service training for health professionals in the rights of persons with disabilities;

(b) Act on the outcome and recommendations of the survey of the sexual and reproductive rights of women with disabilities in the Dominican Republic, conducted by the Women with Disabilities Circle;

(c) Ensure that all health services are accessible in rural and more remote areas and that there is no discrimination against Haitian migrants with disabilities or their descendants, particularly those with disabilities;

(d) Strengthen mental health services, taking a human-rights-based approach.

Habilitation and rehabilitation (art. 26)

48. The Committee is concerned about the lack of community-based habilitation and rehabilitation services for persons with disabilities, and in particular at the fact that the "Coming out of Hiding" programme does not include such services. It is also concerned that, where habilitation and rehabilitation services do exist, they are only for persons of Dominican nationality who have family health insurance, and that migrants in an irregular situation are thus denied access.

49. **The Committee recommends that the State party expand habilitation and rehabilitation services, particularly at the community level, and prohibit discrimination in these services, particularly on the grounds of national origin or immigration status.**

Work and employment (art. 27)

50. The Committee finds that the number of persons with disabilities in formal employment is insufficient, reflecting the lack of any State policy on non-discrimination and equal work and employment opportunities for persons with disabilities. The Committee is concerned that there are still no regulations governing the obligation to provide reasonable accommodation, or to ensure that the denial of reasonable accommodation is deemed discriminatory at any stage of employment. It is also concerned at the lack of affirmative action measures to expedite de facto equality for persons with disabilities in employment.

51. **The Committee recommends that the State party adopt measures to promote the employment of persons with disabilities in the private and public sectors, including affirmative action and regulations governing reasonable accommodation. It also recommends that the State set up a mechanism for monitoring compliance with employment quotas in the public sector and sanctions in cases of non-compliance.**

Adequate standard of living and social protection (art. 28)

52. The Committee is concerned at the under-recording of persons with disabilities living in poverty in the Standardized System of Beneficiaries (SIUBEN), resulting in their exclusion from poverty-reduction strategies, policies and programmes. It also considers that the lack of financial support for persons with disabilities to offset the additional costs incurred as a result of their disability exacerbates their situation of poverty.

53. **The Committee recommends that the State party include, as a matter of priority, Dominican nationals with disabilities and persons with disabilities in an irregular migration situation in their poverty-reduction strategies and in programmes of social assistance, such as support in offsetting the additional costs incurred as a result of their disability, including subsidies for the purchase of assistive devices, medicines and assistance services, in order to mitigate the impact of such expenses and the exacerbation of poverty.**

Participation in political and public life (art. 29)

54. The Committee is concerned by the lack of accessibility with respect to the State party's polling stations and to information on electoral processes for persons with disabilities.

55. **The Committee recommends that, when designing and implementing electoral processes, the State party consult organizations of persons with disabilities on a range of issues from the accessibility of information and communications to accessibility during the vote. It likewise recommends that persons with disabilities be included in legislation on electoral rights and that the political participation of persons with disabilities be encouraged at all levels, ranging from civil society organizations and political parties to the promotion of candidatures in public elections.**

Participation in cultural life, recreation, leisure and sport (art. 30)

56. The Committee is concerned that the State Party has not yet ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled and is worried by the lack of accessibility to tourist sites, historical and heritage monuments, museums and other facilities for carrying out artistic and cultural activities.

57. **The Committee recommends that the State party:**

(a) Ratify the Marrakesh Treaty;

(b) Implement a plan to ensure accessibility to tourist sites, historical monuments and facilities where artistic and cultural activities are carried out and to promote the participation of persons with disabilities in these activities.

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

58. The Committee is concerned about the shortage of data and disaggregated information on persons with disabilities, in particular the lack of figures indicating literacy level or the number of persons with disabilities who have a family health insurance. It is also worried by inconsistencies in the figures of persons with disabilities registered in the 2010 national population and housing census and the 2013 ENHOGAR household survey.

59. **The Committee recommends that the State party:**

(a) Systematically collect data and disaggregated information on persons with disabilities;

(b) Unify criteria and methodology for the collection of statistical data on persons with disabilities.

International cooperation (art. 32)

60. The Committee is concerned that the State party has no findings on international cooperation directed towards the implementation of Convention. It is also concerned about the lack of information on the mainstreaming of the rights of persons with disabilities in plans, programmes and action to accomplish the Millennium Development Goals.

61. **The Committee recommends that the State party monitor, with the participation of organizations of persons with disabilities, projects supported by international cooperation, in order to ensure that they have an impact on progress towards the implementation of the Convention. It also recommends that the perspective of persons with disabilities be mainstreamed in the implementation of the Millennium Development Goals and the sustainable development goals which will be promoted in the post-2015 United Nations sustainable development agenda.**

National implementation and monitoring (art. 33)

62. The Committee notes that the State party had not appointed the independent monitoring mechanism and is worried about the low level of participation of organizations of persons with disabilities in the processes of implementing and monitoring the Convention.

63. **The Committee recommends that the State party:**

(a) Designate without delay the independent mechanism to monitor the implementation of the Convention, in accordance with article 33, paragraph 2, thereof and with the Paris Principles, and allocate the necessary resources for its operation;

(b) Involve organizations of persons with disabilities, both in the processes of implementing the Convention in accordance with article 33, paragraph 1, and in the mechanism established under article 33, paragraph 2, of the Convention.

Cooperation and technical assistance

64. Pursuant to article 37 of the Convention, the Committee offers technical guidance to the State party on the basis of expert opinion forwarded through the secretariat. The State

party could likewise request technical assistance from the specialized agencies of the United Nations with offices in the country or region.

Follow-up and dissemination

65. The Committee requests the State party to give effect to the recommendations contained in these concluding observations. It recommends that the State party forward the concluding observations, for consideration and action, to the members of the Government and the National Assembly, to the officials of the competent ministries, to the members of the judiciary and to the relevant professional groups, such as educational, medical and legal professionals, to local authorities and the private sector and to the media, using accessible social communication strategies.

66. The Committee requests the State party to disseminate the present concluding observations widely, in accessible formats, in particular to non-governmental organizations and organizations of persons with disabilities, as well as among these persons and members of their family.

67. The Committee encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its next periodic reports.

Next report

68. The Committee requests the State party to present its combined second and third periodic reports by 18 September 2019 at the latest. The Committee also offers the State party the possibility of presenting these combined reports under the simplified reporting procedure, according to which the Committee prepares a list of issues at least one year before the due date of the presentation of the combined reports. The State party's reply to this list of issues will constitute the State party's report.